

PART VII

NONFINANCIAL ELIGIBILITY CRITERIA

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A. NONFINANCIAL ELIGIBILITY CRITERIA

Participation in the Food Stamp Program is based on both financial and nonfinancial eligibility criteria. This chapter contains a discussion of most of the nonfinancial eligibility criteria. A household will meet the nonfinancial eligibility criteria if it:

1. Resides in the locality of application; (7 CFR 273.3) ([Part VII.B.](#))
2. **Resides in a noninstitutional setting or in an eligible institution;** (7 CFR 273.1(e)) ([Part VII.C.](#))
3. Contains no persons currently on strike unless the household would have been eligible before the strike; (7 CFR 273.1(g)(1)) ([Part VII.D.](#))
4. Contains a student enrolled in an institution of higher education who meets certain special eligibility requirements; (7 CFR 273.5) ([Part VII.E.](#))
5. Contains citizens of the United States or eligible aliens (7 CFR 273.4) ([Part VII.F.](#))
6. Registers for work, unless otherwise exempt (7 CFR 273.7). ([Part VIII.A.](#))
7. Does not have a primary wage earner who voluntarily quits **or reduces work** without good cause (7 CFR 273.7(n)) ([Part VIII.B.](#))
8. Provides Social Security numbers for household members (7 CFR 273.6(a)(1)). ([Part VII.G.](#))

The presence of cooking facilities is not a criterion for determining eligibility for the Food Stamp Program.

B. RESIDENCY (7 CFR 273.3)

Residence is defined as physical presence in a locality with the intent to remain either temporarily or permanently.

Households do not have to live in the locality for a particular length of time in order to get food stamps, nor do they have to have any intent of staying any length of time. Persons vacationing in an area cannot be considered as residents.

Households must reside in the locality in which they apply for participation in the Program. Households do not have to reside in a

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permanent dwelling or have a fixed mailing address as a condition of eligibility. Migrant campsites, motels, or other temporary shelters meet the residency requirements. Households may live in vehicles, such as cars, buses, or trucks, etc. Other individuals may live on the street. As long as households maintain a physical presence in the locality, they will meet residency requirement. Households may not participate in more than one locality at a time.

See [Part III.A and D](#) for a discussion of the verification of residency.

Note: The local agency may choose to keep an ongoing case in active status during a temporary move from the locality. This policy is discussed in [Part XIV.A.7](#).

C. RESIDENTS OF INSTITUTIONS (7 CFR 273.1(e))

1. Definition of a Resident of an Institution

Individuals will be considered residents of an institution when the institution provides them with the majority of their meals (over 50% of three meals daily) as a part of its normal service.

Residents of public institutions who apply for SSI before their release from an institution under the Social Security Administration's Prerelease Program for the Institutionalized may apply for food stamps at the same time they apply for SSI. For these applicants, the filing date of the food stamp application will be the date of release of the applicant from the institution.

2. Eligible Institutional Residents

Residents of institutions are not eligible for participation in the Food Stamp Program with the exceptions noted below:

- a. Residents of any federally subsidized housing for the elderly.
- b. Narcotic drug addicts or alcoholics or the children of these individuals who reside at a facility or treatment center under the supervision of a drug or alcoholic treatment and rehabilitation program. .

A drug or alcoholic treatment and rehabilitation program means a program leading to rehabilitation conducted by a private, nonprofit organization or institution or a publicly operated community health center, under Part B of Title XIX of the Public Health Service Act, or meets the criteria which would make it eligible to receive funds under Part B of Title XIX, even if it does not actually receive funds from that source.

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The treatment program must present information or documentation to show that it meets the eligibility criteria. See [Part VI.E](#) for additional information about treatment centers.

- c. Disabled or blind individuals who are residents of a public or private, nonprofit residential setting that serves no more than sixteen residents. These group living arrangements must be certified by an appropriate agency of the State or locality under Section 1616(e) of the Social Security Act and regulations based on it. **See [Part VI.E](#) for a discussion of this group living arrangement.**
- d. Women or women with their children temporarily residing in a shelter for battered women and children. A shelter for battered women and children means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.
- e. Residents of public or private nonprofit shelters for homeless persons.

D. STRIKERS (7 CFR 273.1(g)(1))

1. Definition of a Striker

- a. For Food Stamp purposes a striker is defined as:
 - 1) Anyone involved in a strike; or,
 - 2) Anyone involved in a concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement); or,
 - 3) Anyone involved in any concerted slowdown (or other concerted interruption of operations by employees).
- b. Examples of non-strikers include:
 - 1) Employees whose workplace is closed by an employer in order to resist demands of employees, e.g., lockout.
 - 2) An individual who would have been exempt from work registration on the day prior to the strike, other than those exempt solely on the grounds that they are employed

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at the struck plant, e.g., the individual may be the caretaker of a child under 6 years of age and, therefore, would not be affected by the striker provisions.

- 3) Employees unable to work as a result of striking employees, e.g., striking newspaper pressmen preventing newspapers from being printed and, consequently, truck drivers are not working because there are no papers to deliver.
- 4) Employees who are not part of the bargaining unit on strike who do not want to cross a picket line due to fear of personal injury or death.

2. Determining Striker Eligibility at Initial Certification

Households with striking members (this does not include individuals exempt from work registration) shall be ineligible to participate unless the household was eligible immediately prior to the strike. This means that the EW must determine the household's income as though the household applied on the day before the strike for all individuals in the household on that date. Do not account for changes between this date and the date of application in the eligibility determination. For example, if an individual was in the home on the day before the strike, receiving \$100 per month, and on the date of application this individual is no longer in the home, eligibility must still be based on this individual being in the home and the income he or she was receiving. Also, in considering the striker's income as though the household applied on the day before the strike, if the striker was absent from work for one week due to sickness, for example, a full month's income is still to be counted. Normal verifications must be obtained (FNS Policy Memo 82-4).

If the household would have been ineligible had they applied the day before the strike, deny the application.

If the household would have been eligible had they applied the day before the strike, the EW shall compare the striking member's income before the strike to the striker's current income. Add the higher of the two to the current income of nonstriking members that is anticipated to determine the household's eligibility at the time of application.

Use only current resources in determining resource eligibility.

Strikers who are eligible are subject to the work registration requirements of [Part VIII.A.](#)

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3. Determining Striker Eligibility for Ongoing Cases

If a member of a currently certified household becomes involved in a strike, the definition of a striker described in [Part VII.D.](#) is still applicable. The household containing a person defined as a striker shall not receive an increased allotment as the result of a decrease in income of the striking member(s). The EW shall compare the striker's income before the strike to the striker's current income and add the higher of the two to the countable income of nonstriking members.

Use only current resources in determining resource eligibility.

Strikers who are eligible are subject to the work registration requirements in [Part VIII.A.](#)

4. Changes in Striker Status

If a striker officially terminates employment with the struck employer, he/she will no longer be considered a striker. The employer or other acceptable sources must verify an official termination.

If a striker accepts temporary employment with the intent of returning to his struck job once the strike ends, he is still considered a striker.

E. STUDENTS (7 CFR 273.5)

1. Definition of a Student

For the purposes of this chapter, the term student will refer to a person who is enrolled at least halftime in an institution of higher education. The term student will refer to a person who is:

- a. is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment; or,
- b. is enrolled in a regular curriculum at a college or university that offers degree programs, regardless of whether a high school diploma is required.

Once a student enrolls in an institution of higher education, the enrollment shall be considered to continue through all normal periods of class attendance, vacation, and recess unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

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Enrollment shall be considered to begin on the first day of the school term of the institution of higher education.

2. Student Exemptions (7 CFR 273.5(b))

To be eligible to participate in the Food Stamp Program, students, as identified above, must meet special criteria listed below. The resources of students who are not eligible are not considered in determining the eligibility or benefit level of other household members. The income of ineligible students shall be evaluated in accordance with [Part XI.G](#).

To be eligible, a student must meet at least one of the following criteria:

- a. Be 17 years of age or younger or, age 50 or older;
- b. Be mentally or physically unfit;
- c. Be employed for a minimum of 20 hours per week and be paid for such employment;
- d. Be employed in a self-employed business for a minimum of 20 hours per week and receive weekly earnings at least equal to the federal minimum wage multiplied by 20 hours;
- e. Be participating in a state or federally financed work-study program during the regular school year;
- f. Be responsible for the care of a dependent household member under the age of six;
- g. Be responsible for the care of a dependent household member who is age six through age eleven where the local agency has determined that adequate child care is not available to enable the student to both attend class and satisfy the 20 hour per week work requirement or participate in work study;
- h. Be a full-time student and a single parent or caretaker who is responsible for the care of a dependent household member who is under age 12;
- i. Be receiving benefits from the TANF Program;
- j. Be participating in a work incentive program under Title IV of the Social Security Act, i.e. Virginia Initiative for Employment Not Welfare (VIEW) Program;

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- k. Be participating in an on-the-job training program; or,
- l. Be assigned to or placed in an institution of higher education through:
 - 1) Programs under the Workforce Investment Act (WIA);
 - 2) The Food Stamp Employment and Training (FSET) Program;
 - 3) A program under Section 236 of the Trade Act; or,
 - 4) An employment and training program operated by State or local governments where one or more of the program's components are comparable to FSET components.

Students paid or subsidized for in-class hours are not considered employed during that time so such class attendance would not make a student eligible under the minimum 20 hour per week work requirement. In addition, the exemption for on-the-job training is valid only for the period the person is being trained by the employer.

In evaluating a student's eligibility based on the work-study provision, note that the student must be approved for work-study at the time of the application for food stamps. In addition, the work-study must be approved for the school term and the student must anticipate actually working during the school term. This exemption will begin either the month the school term starts or the month the work-study is approved, whichever is later. The student's exemption is not to continue beyond the month the school term ends or when it becomes known that a work-study assignment has been refused nor, is the exemption continued between terms when there is a break of a full month or more, unless the student is participating in work-study during the break.

In evaluating whether adequate childcare is not available for children who have reached the age of 6 but are not yet 12, the following guidelines have been developed. If:

- a. There is no licensed day care facility available; or,
- b. The student cannot afford the day care; or,
- c. There is no reliable or reasonable transportation to the day care provider;

then it is probably likely that adequate child care is not available. Note, however, that even if these factors exist, adequate childcare is deemed available if the student has arranged for day care.

F. CITIZENSHIP AND ELIGIBLE IMMIGRANTS

Only U.S. citizens and certain immigrants are eligible for the Food Stamp Program. Based on the household's written declaration on the application, the local agency must determine if each household member is a citizen or an immigrant. If a member is an immigrant, the local agency must determine if that member is an eligible immigrant. The sponsored immigrant policies described in [Part XII.C](#) must also be evaluated for eligible immigrants who have sponsors.

1. Eligibility of Immigrants

The following categories of immigrants are eligible to participate in the Food Stamp Program:

- a. A refugee admitted under Section 207 of the Immigration and Nationality Act (INA) until seven years after the date the refugee status was granted.

This category includes individuals who are victims of human trafficking **and may include the minor children, spouse, parents, or the unmarried minor siblings of the trafficking victim.** These refugees must present a letter from the Office of Refugee Resettlement (ORR) **or present a T visa** that certifies or documents the status. **The EW must call 1-866-401-5510 to verify the validity of the documents and to inform ORR of the application for food stamp benefits.**

- b. An immigrant granted asylum under INA Section 208 until seven years after the date the status was granted.
- c. An immigrant living in the U.S. and for whom deportation is being withheld under INA Section 243(h) or Section 241(b) (3) until seven years after the deportation withholding.
- d. A Cuban or Haitian entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980, until seven years after the date the Cuban-Haitian status was granted. This designation includes refugee or parole status.
- e. An Amerasian immigrant until seven years after the date admitted as an Amerasian immigrant as documented by the I-94 or other forms with notations of AM1, AM2, AM3, AM6, AM7, or AM8.
- f. Lawful permanent resident immigrants who have worked for 40 qualifying quarters of coverage under Title II of the Social Security Act are eligible for food stamps. Quarters of work for jobs not covered by Title II of the Social Security Act may be credited toward the qualifying minimum. For quarters after December 1996, no federal means-tested public benefits may be

received to count as a qualifying quarter. For this provision, public benefits are TANF, SSI, Medicaid and the Food Stamp Programs. **This provision also includes Nutritional Assistance Program benefits from Puerto Rico, American Samoa, and the Northern Mariana Islands.**

Quarters earned by the spouse of the permanent resident immigrant during the marriage, provided they are still married to each other, may be counted. Quarters earned by parents, including step- or adoptive parents, of a permanent resident immigrant before the alien turns 18, may be counted toward the qualifying minimum for the immigrant, including any quarters earned prior to a child's birth.

- g. Native Americans entitled to cross the border of the United States into Canada or Mexico. This group comprises persons born in Canada to whom INA Section 289 applies or members of an Indian tribe, as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act.
- h. Highland Laotians and Hmong tribe members who are lawfully residing in the United States and who were part of a Highland Laotian or Hmong tribe between August 5, 1964 and May 7, 1975 when such tribes assisted U.S. personnel. The unmarried dependent children, spouse, and the surviving spouse who has not remarried of tribal members are also eligible.

Immigrants who originally had refugee, asylum, Amerasian, or Cuban-Haitian designations or who had their deportations withheld (items a- e), but who subsequently gain permanent resident status, must continue to be certified for food stamps under the original designation. Note that after being in the country for five years, these immigrants will be eligible for food stamps indefinitely. See the conditional eligibility section below.

2. Conditional Eligibility of Immigrants

- a. The following categories of immigrants are eligible to participate in the Food Stamp Program provided they also meet a qualified category in subsection b:
 - 1. An individual who has been in the United States as a qualified immigrant for five years or more from the date of entry **in the country or from the date of a change in the immigration status.**
 - 2. Veterans with honorable discharges for reasons not related to alien status and persons who are on active duty in the Armed Forces of the United States, other than training. To be an eligible veteran, one must have served a minimum of 24 months or the period for

which the person was called to active duty. The term veteran includes military personnel who die during active duty served in the Philippine Commonwealth Army during World War II or as Philippine Scouts following the war.

The spouse or unmarried dependent child of a veteran or person on active duty is also eligible. The surviving spouse of a deceased veteran or of an individual who died while on active duty is also eligible. Eligibility of the surviving spouse is allowed provided the spouse has not remarried and that the marriage was for at least one year, or that they were married before the end of a 15-year period following the end of the period of military service in which the injury or disease was incurred or aggravated; or, that they were married for any period if a child was born of the marriage or was born before the marriage.

3. An individual who receives payments or assistance for blindness or disability, as defined in Definitions.
 4. An individual lawfully residing in the U.S. on August 22, 1996 and who was 65 years of age or older at that time.
 5. A child under 18 years of age lawfully residing in the U.S.
- b. A qualified immigrant is one who is:
1. a lawful permanent resident;
 2. a refugee admitted under INA Section 207;
 3. a person granted asylum admitted under INA Section 208;
 4. one whose deportation is being withheld under INA Section 243(h) or 241(b)(3);
 5. a parolee admitted under INA Section 212(d)(5) and the status is granted for at least one year;
 6. a conditional entrant admitted under INA Section 203 as in effect as of April 1, 1980;
 7. a battered spouse or child, as established by INS and the agencies providing benefits that a substantial connection exists between the battery and the need for benefits;

8. a Cuban or Haitian entrant; or
9. an Amerasian immigrant.

3. Verification of Immigrant Status

Verification of immigrant status is mandatory for initial applications and as new household members are added. While awaiting acceptable verification, except as noted below, the immigrant whose status is unverified is ineligible but the eligibility of any remaining household members must be determined. The income and resources of the immigrant whose status is unverified is considered available in determining the eligibility of any remaining members, as described in [Part XII.E](#). If verification of eligible status is later received, the agency must treat this as a reported change in household size.

Verification of the number of qualifying quarters to which an immigrant may directly or indirectly claim access for Food Stamp Program purposes will primarily be available from the Social Security Administration (SSA). Verification of the quarters of coverage may be accessed through the State Verification Exchange System (SVES). If verification is not obtained through SVES or in some instances, from SSA directly, or, if the SSA information is contested by the household or is incomplete, the household will be responsible for supplying proof of the amount of past wages to document the quarters earned. The SSA-Consent for Release of Information form must normally be completed for each person for whom the work history is needed. See [Appendix 1](#) of this Part for the verification process and forms.

In instances when the number of countable quarters verified by SSA is in dispute, an immigrant will be allowed to receive food stamps for up to six months while working with SSA to resolve the issue.

As with other mandatory verifications, verification of immigration status may be postponed for households entitled to expedited service processing. However, the household member must claim to be of an eligible immigrant category before participation is allowed for the first month.

Documentation from the **U.S. Citizenship and Immigration Services (USCIS)** or other sources that the EW determines constitutes reasonable evidence of immigrant status is acceptable. If an immigrant does not have proof of the immigration status, the local agency must advise the household to contact **USCIS** to obtain verification. Forms G-845S and the Supplement in [Appendix 2](#) of this Part may be used to obtain information from **USCIS** when evidence presented is not clear or the applicant cannot provide information.

Documentation provided by the household may be submitted to **USCIS** for validation through the Systematic Alien Verification for Entitlement Programs (SAVE) system. The SAVE procedures are outlined in [Appendix 2 of Part VII](#). The use of SAVE is optional for food stamp eligibility determinations.

Immigration documentation includes, but is not limited to, the forms listed below.

- a. Resident Alien Card, Form I-551: This form, called the green card, is issued to immigrants admitted for permanent residence.

A foreign passport or **USCIS** documents, other than the I-551, will be acceptable proof of permanent residency if it has the endorsement: "Processed for I-551. Temporary Evidence of Lawful Admission for Permanent Residence. Valid until _____. Employment Authorized."

- b. Arrival - Departure Record, Form I-94: This form is issued by **USCIS** to persons who may or may not be eligible for food stamps. Eligible aliens with I-94s must have certain INA Sections or terms listed on the forms. INA Sections 207, 208, or 243(h) or terms, such as refugee or asylum, on the I-94 reflect eligible alien status.

- c. Employment Authorization Document, Forms I-688B or I-766: These forms are issued to persons who may or may not be eligible for food stamps.

The I-688B will be sufficient verification for these citations:

<u>Citation</u>	<u>Status</u>
274a.12(a) (1)	Lawful permanent resident
274a.12(a) (3)	Refugee
274a.12(a) (5)	Asylum
274a.12(a) (10)	Deportation Withheld

The I-766 will be sufficient verification if annotated with the following:

A3	Refugee
A5	Asylum
A10	Deportation withheld

- d. Documents such as the Employment Authorization Card, Form I-688A or the Fee Receipt, Form I-689 may be used with other verification to establish alien eligibility. These forms alone do not provide ample verification of eligible alien status.

4. Verification of Citizenship

Citizenship must not be verified unless the household's statement that one or more of its members are U. S. citizens is questionable. If questionable, the household must be asked to provide acceptable verification. Acceptable forms of verification include:

- a. birth certificates
- b. religious records
- c. voter registration cards
- d. certificates of citizenship or naturalization provided by INS, including passports

General appearance of the applicant, foreign accent, inability to speak English, employment as a migrant farm worker, or a foreign sounding name are not sufficient reasons, in and of themselves, to consider information about citizenship questionable.

If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, the local agency must accept a signed statement from someone who is a U.S. citizen which declares, under penalty of perjury, that the member in question is a U.S. citizen. The signed statement must contain a warning of the penalties for helping someone commit fraud, such as: "If you intentionally give false information to help this person get food stamps, you may be fined, imprisoned, or both."

The member whose citizenship is in question is not allowed to participate until proof of U. S. citizenship is obtained. Until proof of U. S. citizenship is obtained, the member in question will have his or her income, less a prorata share, and all of his other resources considered available to any remaining household members. (See [Part XII.E.](#))

If the agency reduces or terminates a household's benefits within the certification period because one or more of its members is disqualified as an ineligible alien, the local agency must issue the Advance Notice of Proposed Action to inform the household that the individual is disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification, if applicable.

All persons born in the Commonwealth of Puerto Rico, American Samoa, Guam, Mariana Islands, and the U.S. Virgin Islands are U.S. citizens or nationals.

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5. Reporting Illegal Aliens (7 CFR 273.4(b))

The local agency must report to the INS any individual who the agency "knows" to be in the United States in violation of the Immigration Nationality Act. The household must present a Final Order of Deportation in order for the local agency to "know" that the person is in violation to make the report to the INS. In no other instance may the agency make the report to the INS.

If a household member presents a Final Order of Deportation issued by INS or by the Executive Office of Immigration Review, the local agency director must report to INS. The report must include the individual's:

- name
- address
- other identifying information

The agency must send the report to:

Director
Policy Directives and Instructions Branch
Immigration and Naturalization Service
425 I Street, N.W.
Room 4034
Washington, D.C. 20535
ATTN: INS No 2070-00

G. SOCIAL SECURITY NUMBERS (7 CFR 273.6)

1. Requirements for Participation

An applicant must provide the local agency with the Social Security number (SSN) of each household member, or apply for a number before certification. This provision applies to participating or applying households.

During the eligibility interview, the agency must explain to the applicant or participant that refusal or failure without good cause to provide or apply for an SSN will result in disqualification of the individual for whom the number is not obtained.

If an individual has more than one SSN, the agency must request and the household must provide all the numbers.

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2. Obtaining a Social Security Number

For individuals who provide the SSN before certification or at any other time, the agency must record the SSN and verify it according to [Part III.A.1.j](#).

For individuals who do not have a SSN, those who do not know if they have a number, those who are unable to find and therefore cannot provide their number or those whose numbers appear questionable, the agency must direct the household to submit Form SS-5, Application for a Social Security Number, to the Social Security Administration (SSA). The agency must advise the household where to file the application for an SSN and discuss what evidence will be needed to obtain an SSN. Evidence needed includes a U.S. public record of birth established before age five or other verification of birth, such as religious records whose validity is not questionable, or hospital records, if they can be verified by the SSA. While religious and hospital records will entitle the individual to an SSN, further proof of birth is required by the SSA to establish eligibility for Social Security benefits.

If the household is unable to provide proof of application for the number for a newborn when the child is first added to the case, the household must provide the number or proof of application at its next recertification or within six months, whichever is later. If the household is unable to provide the number or proof of application within the time allowed, the agency must determine if good cause provisions exist.

The agency shall advise the household that proof of the application for an SSN from SSA will be required prior to certification, and suggest that the household member ask the SSA for proof of the application for an SSN. SSA has a Form SSA-5028, Receipt for Application for a Social Security Number, for this purpose. Local agencies may also devise their own form for this purpose; however, these must receive the approval of the Regional Food Stamp Specialist.

3. Failure to Comply (7 CFR 273.6(c))

If the local agency determines that a household member has refused or failed without good cause to provide or apply for an SSN, then the individual without the SSN is disqualified from participation in the Food Stamp Program. The disqualification applies to the individual for whom the SSN is not provided and not to the entire household. Part XII.E. contains instructions for the treatment of income and resources of the disqualified household member.

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4. Determining Good Cause (7 CFR 273.6(d))

In determining if good cause exists for failure to comply with the requirement to provide an SSN, the local agency must consider information from the household member and SSA.

Good cause for failing to apply for a number includes documentary evidence or collateral information that the household has made every effort to supply SSA with the necessary information to complete an application for an SSN. Good cause does not include delays due to illness, lack of transportation or temporary absences, because SSA makes provisions for mailing in applications for the SSN. If a household can show good cause why an application for an SSN has not been completed, the member in question shall be allowed to participate for one month in addition to the month of application for food stamps. Good cause for failure to apply must be shown monthly thereafter in order for such a household member to continue to participate.

If the household is unable to obtain the documents required by SSA in order to apply for an SSN, the eligibility worker shall assist the individual in obtaining these documents.

5. Ending Disqualification (7 CFR 273.6(e))

Once a person has been disqualified for refusal or failure to provide an SSN or apply for an SSN, the disqualified member must provide an SSN before eligibility can be established.

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